

REMARKS

Please reconsider the application in view of the following remarks. Applicant thanks the Examiner for carefully considering this application.

Disposition of Claims

Claims 1-4 are pending in this application. Claims 1 and 3 are independent. The remaining claims depend, directly or indirectly, from claims 1 and 3.

Rejection(s) under 35 U.S.C § 102

Claims 1-4 stand rejected under 35 U.S.C. § 102 (e) as anticipated by U.S. Patent 6,728,956 ("Ono"). This rejection is respectfully traversed.

Independent claims 1 and 3 are directed to a mechanism and a method for updating a program. Specifically, as shown in, for example, Fig. 6, an apparatus of the present invention receives a new operation program via a communication line such as a network to update a previous operation program that is running in a system, and checks out whether an application program is successfully activated after activation of the new operation program as the system's normal operation. As a consequence, if the new operation program fails in the activation, the apparatus tries to restore the operation of the system by selecting one of the following different ways depending on conditions of the failure: (1) the apparatus re-activates the previous operation program (Fig. 6g); (2) running under the new operation program, the apparatus recovers the application program using a recovering application (Fig. 6h); or (3) running under the previous operation program, the apparatus recovers the application program using the recovering application (Fig. 6i). In view of this, apparatus

claim 1 includes the limitation, “in the case when the failure detecting means detects any failure in the activation of the operation program to be selected for activation, another operation program is selected to be activated, and in the case when the failure detecting means detects any failure in activation of the application program, the recovering application is used for recovering the setting required for the operation of the application program.” Also, method claim 3 includes the limitation, “in the case when any failure is detected in the activation of the application program, activating a recovering application which alters a setting required for the operation of the application program; and altering the setting by using the recovering application.”

Ono, in contrast, fails to show or suggest at least the above limitation as recited in claims 1 and 3. Ono merely discloses checking contents of a program to judge whether the program operates abnormally before execution thereof, and executing another program if the program operates abnormally. Specifically, Ono selects a flash memory in accordance with a jump instruction, checks whether a program in the flash memory selected operates abnormally before executing the program, and [selects other flash memory], if the primarily selected program operates abnormally, to execute another program stored in the other flash memory. However, in Ono, there is no teaching, suggestion or disclosure that, when a problem occurs in activation of an application program, a recovering application is activated to alter a setting requested for operation of the application program as recited in claim 1 and 3.

In view of the above, Ono fails to show or suggest the present invention as recited in claims 1 and 3. Thus, independent claims 1 and 3 are patentable over Ono. Dependent claims are allowable for at least the same reasons. Accordingly, withdrawal of this

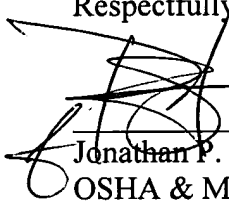
rejection is respectfully requested.

Conclusion

Applicant believes this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 15115.020001).

Date: 2/1/05

Respectfully submitted,

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